

VZCZCXRO2667
OO RUEHAG RUEHROV
DE RUEHNC #0085/01 0301607
ZNY CCCCC ZZH
O 301607Z JAN 07
FM AMEMBASSY NICOSIA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 7476
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE IMMEDIATE
RUCNDT/USMISSION USUN NEW YORK IMMEDIATE 0763
RUEHBS/USEU BRUSSELS IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 02 NICOSIA 000085

SIPDIS

SIPDIS

DEPARTMENT FOR EUR/SE, IO/UNP

E.O. 12958: DECL: 01/14/2017

TAGS: [PGOV](#) [PREL](#) [UNFICYP](#) [ECON](#) [CY](#)

SUBJECT: PARLIAMENT TO CONSIDER "COMMANDEERING" T/C
PROPERTIES IN SOUTH

REF: 06 NICOSIA 2010

Classified By: Ambassador Ronald Schlicher, Reasons 1.4 (b), (d)

11. (SBU) SUMMARY: As a result of a landmark 2005 Supreme Court decision that returned the property of a Turkish Cypriot who had resettled in the south, Greek Cypriot "refugees" inhabiting T/C houses have lived with the constant threat of eviction should legal T/C owners move south and seek restitution. In an attempt to reassure Greek Cypriots that they will not be removed from Turkish Cypriot properties soon, the governing DIKO party recently submitted draft legislation proposing that the RoC "commandeer" all lands used for the housing of refugees. Such a move would not transfer title to G/C inhabitants, but would provide them greatly increased protection from displacement and put the government, rather than individual refugees, on the spot for any compensation claims. In a related development, the Supreme Court January 19 rejected the appeal of a T/C who was seeking immediate compensation for his expropriated property in the government-controlled area, citing the fact he was living in the north. The Court's decision allayed G/C concerns that freer travel between north and south would lead to a wave of applications by Turkish Cypriots to reclaim their "abandoned" properties. Unhappy with the decision, the T/C owner's attorney has threatened to follow the example of Greek Cypriots similarly displaced from properties in the north, taking the case to the European Court of Human Rights.
END SUMMARY.

REFUGEE OR IDP? A BIT OF BACKGROUND

12. (U) As a result of the 1974 conflict and the population exchange agreements which followed, nearly 200,000 Greek Cypriots relocated from northern Cyprus to the government-controlled area south of the Green Line. More accurately classified as internally displaced persons (IDPs), these "refugees" and their descendants -- males can transmit the status to their offspring -- now account for 34 percent of the G/C population and enjoy considerable state benefits, from cash handouts to subsidized mortgages. Parliamentarians have tabled two bills recently that would expand their numbers further by ending "discrimination" against female refugees' rights of transmission; the RoC is resisting the move, citing its effect on the national budget (estimated in the hundreds of millions of Cyprus pounds) and resulting implications for the RoC's Eurozone admittance.

SEARCHING FOR WAYS TO QUELL FEARS OF EVICTION

13. (U) Since the opening of the Green Line checkpoints in April 2003, Greek Cypriot "refugees" have voiced concern that

Turkish Cypriots would resettle in the south en masse and reclaim their properties. Those fears have proven somewhat exaggerated, since only a few T/Cs have done so. Of those who moved to the RoC-controlled area, however, most either received property restitution or reached out-of-court settlements with the government. At the end of 2006, 35 cases of Turkish Cypriots reclaiming their properties were pending before Republic of Cyprus courts.

14. (U) In early January, DIKO MP Andreas Angelides submitted to the House Committee on Refugees a draft bill proposing the government "commandeer" all properties that have been used for the housing and other immediate needs of Greek Cypriots displaced after the events of 1974. According to the proposal, this acquisition, unlike outright expropriation, would last only as long as the "abnormal situation" in the country continues. Meanwhile, the legal owner would be entitled to compensation. Although the draft bill does not specifically refer to Turkish Cypriot land, in practice the only privately-owned properties used for housing "refugees" without having been previously expropriated were Turkish Cypriot (Greek Cypriot privately-owned land used for the same purpose, more than one-third of the total, was expropriated outright, with compensation.) During the first discussion of the draft bill on January 17, the chairman of the Committee on Refugees, AKEL MP Aristofanis Georghiou, urged careful consideration, due to the complexity and potentially serious political implications of the legislation. Georghiou has requested that Attorney General Petros Clerides appear before the Committee to provide MPs advice.

15. (U) Besides calming eviction fears of current G/C users of T/C properties, the bill's proponents hope to strengthen

NICOSIA 00000085 002 OF 002

the RoC's legal position in court cases that Turkish Cypriots have filed. In a landmark 2005 case, the Supreme Court ordered the return of the property of Arif Mustafa, a Turkish Cypriot who had fled to the north in 1974 but resettled in the RoC-controlled area five years ago. As a result of the decision, the RoC relocated the Greek Cypriots living on his property and returned it to Mustafa. Some 5,000 T/C homes are now occupied by G/C "refugees," while one-third of the land that was used to build refugee houses -- 8,556 building plots -- belong to Turkish Cypriots who fled north. Those properties have not been expropriated and effectively still belong to their Turkish Cypriot owners. Along with all other "abandoned" T/C immovable property, they have been placed under the guardianship of the Ministry of Interior pursuant to the 1991 "Caretaker Law." This legislation stipulates that Turkish Cypriot owners can take possession of their properties only after they permanently resettle in the RoC-controlled area. Turkish Cypriot plaintiffs, however, contend that their human rights as property owners should not be contingent on where they physically reside.

SUPREME COURT UPHOLDS CARETAKER LAW

16. (U) In a related development, a Supreme Court justice January 19 rejected the appeal of Ali Kiamil, a T/C residing in the Turkish Cypriot-controlled area, who had requested restitution or immediate compensation for land the RoC had expropriated. The judge based the first instance decision on the Caretaker Law, which suspends payments to Turkish Cypriots whose property is in the custody of the Ministry of Interior until a final CyProb settlement is reached (the ROC Auditor General told the House Watchdog Committee in mid-January that the government owes over \$1 billion to T/C owners whose properties have been expropriated for public benefit.) Kiamil's attorney vowed to appeal the justice's decision to the Supreme Court's full bench and did not exclude the possibility of applying to the ECHR, should the Cyprus court reject his motion.

17. (U) Pro-government G/C media hailed the Court's rejection of Kiamil's appeal as further confirmation of the Caretaker Law's legality. Opposition daily "Politis," however, wrote January 25 that a final rejection of Kiamil's appeal could open the floodgates for T/C applications to the European Court of Human Rights. Top property law expert Achilleas Demetriades believes the law will not withstand ECHR scrutiny. Aware of the possible political ramifications of such an outcome, the RoC has so far stalled for time and/or backed down. In the crucial Arif Mustafa case, for example, the government chose to withdraw its appeal and thus prevent an application to the ECHR.

COMMENT

18. (C) Greek Cypriots and the RoC are fighting a two-front war on property, seeking redress for G/C land located north of the Green Line while also attempting to protect usage rights of "refugees" squatting on appropriated (but not expropriated) Turkish Cypriot property. Mainly, they have turned to legislation and the courts, both local and European, enlisting polished attorneys like Demetriades in the fight. Recent court verdicts, however, have proven to be a double-edged sword, not always favoring Greek Cypriot litigants nor supporting RoC political goals. One high-ranking official from opposition DISY even told us January 23 that developments regarding property should prove to Greek Cypriots that the status quo is actually worse than what is perceived the worst possible conclusion of the Cyprus issue -- the permanent division of the island.

19. (C) For now, however, G/C concern has not translated into pressure on the government of Tassos Papadopoulos to pursue negotiations on a final CyProb settlement, or even its real estate component. In UN-brokered exploratory talks in Nicosia, for example, Greek Cypriot experts tackling the property issue continue to focus on process, not substance, seemingly determined to drag out the talks as long as possible (to be fair, however, the Turkish Cypriot side has dug in as well.) Meanwhile, the real estate boom in the north continues, the pre-1974 ownership of land between Turkish and Greek Cypriots recedes further into history, and the property element of the Cyprus Problem -- perhaps its most complex and contentious -- looks increasingly intractable.

SCHLICHER